

§ 106.33

cases that illustrate the need for the proposed action.

(c) If the potential impact of the proposed action is substantial, and information and data related to that impact are available to the petitioner, the Associate Administrator for Hazardous Materials Safety or the Chief Counsel may request the petitioner to provide—

(1) The costs and benefits to society and identifiable groups within society, quantifiable and otherwise;

(2) The direct effects (including preemption effects) of the proposed action on States, on the relationship between the Federal Government and the States, and on the distribution of power and responsibilities among the various levels of government;

(3) The regulatory burden on small businesses, small organizations and small governmental jurisdictions;

(4) The recordkeeping and reporting requirements and to whom they would apply; and

(5) Impacts on the quality of the natural and social environments.

(d) The Associate Administrator for Hazardous Materials Safety or Chief Counsel may return a petition that does not comply with the requirements of this section, accompanied by a written statement indicating the deficiencies in the petition.

[Amdt. 106-11, 61 FR 30180, June 14, 1996, as amended by Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

§ 106.33 Processing of petition.

(a) *General.* Unless the Associate Administrator or the Chief Counsel otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Associate Administrator or the Chief Counsel determines that the petition contains adequate justification, he or she initiates rule-making action under this subpart.

(c) *Denials.* If the Associate Administrator or the Chief Counsel determines that the petition does not justify rule-making, the petition is denied.

(d) *Notification.* The Associate Administrator or the Chief Counsel will notify a petitioner, in writing, of the de-

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cision to grant or deny a petition for rulemaking.

[40 FR 31768, July 29, 1975. Redesignated by Amdt. 102-1, and Amdt. 106-1, 43 FR 43306, Sept. 25, 1978, as amended by Amdt. 106-11, 61 FR 30181, June 14, 1996; Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

§ 106.35 Petitions for reconsideration.

(a) Except as provided in § 106.39(d), any interested person may petition the Associate Administrator for reconsideration of any regulation issued under this part, or may petition the Chief Counsel for reconsideration of any procedural regulation issued under this part and contained in this part or in part 107 of this chapter. It is requested, but not required, that three copies be submitted. The petition must be received not later than 30 days after publication of the rule in the FEDERAL REGISTER. Petitions filed after that time will be considered as petitions filed under § 106.31. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests the consideration of additional facts, the petitioner must state the reason they were not presented to the Associate Administrator or the Chief Counsel within the prescribed time.

(c) The Associate Administrator or the Chief Counsel does not consider repetitious petitions.

(d) Unless the Associate Administrator or the Chief Counsel otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

[40 FR 31768, July 29, 1975. Redesignated by Amdt. 102-1, and Amdt. 106-1, 43 FR 43306, Sept. 25, 1978, as amended by Amdt. 106-11, 61 FR 30181, June 14, 1996; Amdt. 106-13, 61 FR 51337, Oct. 1, 1996]

§ 106.37 Proceedings on petitions for reconsideration.

(a) The Associate Administrator or the Chief Counsel may grant or deny, in whole or in part, any petition for reconsideration without further proceedings, except where a grant of the petition would result in issuance of a new final rule. In the event that the